

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 405

Citations Affected: IC 9-13-2; IC 9-17; IC 9-18-8; IC 9-22-3-11; IC 9-23-2; IC 9-23-3; IC 9-25-6-3; IC 9-29-8-4; IC 9-17-4-5.

Synopsis: Motor vehicle documentation and sales. Conference committee report for ESB 405. Revises procedure regarding delivery of certificate of title and certificate of salvage titles. Requires an assembled vehicle to bear an identification number and requires certain information on its certificate of title. Requires permission from the bureau of motor vehicles (BMV) to place a special identification number on a motor vehicle that does not bear its original or unaltered identification number. Repeals language regarding procedure for an application to the BMV for a missing manufacturer's identification number on a motor vehicle. Provides that the BMV may not issue an offsite sales license to certain motor vehicle dealers. Makes it an unfair practice for a person to act as a broker in the advertising, buying, or selling of at least 12 new or used vehicles per year. Makes conforming amendments. **(This conference committee report: (1) deletes the requirement that certain applications for a license to be a dealer or wholesale dealer of motor vehicles be accompanied by a bond or renewal certificate for a bond; (2) deletes provisions requiring certain off-road vehicles to be registered with the department of natural resources (department) in order to be operated; (3) deletes the Class C infraction penalty to be charged for the operation of certain off-road vehicles without the identification numbers issued by the department attached to the off-road vehicle; (4) deletes an exception concerning the operation of farm machinery and farm tractors upon a roadway; and (5) specifies an exception pertaining to the issuance of an offsite sales license.)**

Effective: July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 405 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 9-13-2-5.5 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2003]: **Sec. 5.5. "Assembled vehicle", for purposes of IC 9-17-4,**
- 5 **has the meaning set forth in IC 9-17-4-0.3.**
- 6 SECTION 2. IC 9-13-2-15 IS AMENDED TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2003]: Sec. 15. "Broker", means a person who,
- 8 for a fee, commission, or other valuable consideration, arranges or
- 9 offers to arrange a transaction involving the sale, for purposes other
- 10 than resale, of a new motor vehicle and who is not:
- 11 (1) a dealer or an employee of a dealer;
- 12 (2) a distributor or an employee of a distributor; or
- 13 (3) at any point in the transaction, the bona fide owner of the
- 14 vehicle involved in the transaction: **for purposes of IC 9-23-3, has**
- 15 **the meaning set forth in IC 9-23-3-0.3.**
- 16 SECTION 3. IC 9-13-2-75 IS AMENDED TO READ AS FOLLOWS
- 17 [EFFECTIVE JULY 1, 2003]: Sec. 75. (a) "Identification number", for
- 18 purposes of IC 9-18-8-15, has the meaning set forth in IC 9-18-8-15(b).
- 19 (b) **"Identification number", for purposes of IC 9-17-4, has the**
- 20 **meaning set forth in IC 9-17-4-0.5.**
- 21 SECTION 4. IC 9-13-2-151.7 IS ADDED TO THE INDIANA CODE
- 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2003]: **Sec. 151.7. "Rental company" has the meaning set forth in IC 24-4-9-7.**

SECTION 5. IC 9-13-2-177.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 177.5. "Third party", for purposes of IC 9-17-3, has the meaning set forth in IC 9-17-3-0.5.**

SECTION 6. IC 9-13-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 185. "Transfer dealer" means a person other than a dealer, manufacturer, **or** wholesale dealer **or broker** who has the necessity of transferring a minimum of twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

SECTION 7. IC 9-17-3-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "third party" means a person having possession of a certificate of title for a:**

- (1) motor vehicle;
- (2) semitrailer; or
- (3) recreational vehicle;

because the person has a lien or an encumbrance indicated on the certificate of title.

SECTION 8. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or ~~has~~ **if** the ownership **of the vehicle is otherwise** transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale **or transfer**.

(4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale **or transfer** to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale **or transfer**.

(C) The vehicle dealer reasonably believes that it will be able to deliver the **certificate of** title, without a lien or an encumbrance on the **certificate of** title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with

an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) **For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver with a postmark dated or hand delivered to the purchaser or transferee not more than ten (10) business days after there is no obligation secured by the vehicle.** A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars (\$100) for the first violation.

(2) Two hundred fifty dollars (\$250) for the second violation.

(3) Five hundred dollars (\$500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid ~~title~~ certificate **of title** and the dealer's failure to deliver a valid ~~title~~ certificate **of title** within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party **one hundred dollars (\$100). If:**

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(d) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(e) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(f) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 9. IC 9-17-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. The affidavit required by IC 9-17-3-3(a)(4) shall be printed in the following form:

STATE OF

INDIANA)

) ss:

COUNTY OF _____)

I affirm under the penalties for perjury that all of the following are true:

(1) That I am a dealer licensed under IC 9-23-1.

(2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____.

Payoff of lien was made on (date)_____. I expect to deliver a valid and transferable certificate of title ~~on or about (day)_____~~ **not later than (date)_____** from the (State of)_____ to the purchaser.

(3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.

Signed _____, Dealer

By _____

Dated _____, _____

CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

Customer Signature

NOTICE TO THE CUSTOMER

If you do not receive a valid certificate of title within the time specified by this affidavit, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer.

If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the above-described ten (10) day period results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's

possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by law.

SECTION 10. IC 9-17-4-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.3. As used in this chapter, "assembled vehicle" means:**

(1) a motor vehicle, excluding a motorcycle, that has had the:

(A) frame;

(B) chassis;

(C) cab; or

(D) body;

replaced; or

(2) a motorcycle that has had the:

(A) frame; or

(B) engine;

replaced.

The term includes but is not limited to glider kits, fiberglass body kits, and vehicle reproductions or replicas and includes motor vehicles that have visible and original vehicle identification numbers.

SECTION 11. IC 9-17-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "identification number" means a distinguishing number assigned by the bureau to a privately assembled motor vehicle, semitrailer, or recreational vehicle.**

SECTION 12. IC 9-17-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. If a motor vehicle, semitrailer, or recreational vehicle has been built, constructed, or assembled by the person who owns the motor vehicle, semitrailer, or recreational vehicle, the person shall: ~~attach to the person's application for a certificate of title an affidavit stating that the motor vehicle, semitrailer, or recreational vehicle was built, constructed, or assembled by the person:~~**

(1) indicate on a form provided by the bureau the major component parts that have been used to assemble the motor vehicle, semitrailer, or recreational vehicle;

(2) make application through the bureau for an identification number for the motor vehicle, semitrailer, or recreational vehicle;

(3) after receipt of the identification number described in subdivision (2), stamp or attach the identification number received from the bureau in the manner provided in section 2(2) of this chapter; and

(4) apply for a certificate of title for the motor vehicle, semitrailer, or recreational vehicle from the bureau.

SECTION 13. IC 9-17-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. A certificate of title may not be issued for a privately assembled motor vehicle, semitrailer, or recreational vehicle that does not have a distinctive identification number stamped on the motor vehicle, semitrailer, or recreational**

vehicle or permanently attached to the motor vehicle, semitrailer, or recreational vehicle until the person who owns the motor vehicle, semitrailer, or recreational vehicle has:

- (1) obtained from the bureau an identification number designated by the bureau; and
- (2) stamped **or permanently attached** the identification number in a conspicuous place on the frame of the motor vehicle, semitrailer, or recreational vehicle.

SECTION 14. IC 9-17-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A certificate of title issued under this chapter must contain the following:

(1) A description and other evidence of identification of the motor vehicle, semitrailer, or recreational vehicle as required by the bureau.

(2) A statement of any liens or encumbrances that the application shows to be on the certificate of title.

(3) The appropriate notation prominently recorded on the front of the title as follows:

(A) For a vehicle assembled using all new vehicle parts, excluding the vehicle frame, "ASSEMBLED VEHICLE".

(B) For a vehicle assembled using used parts, "REBUILT VEHICLE".

(C) For a vehicle assembled using a salvage vehicle or parts, "REBUILT SALVAGE".

SECTION 15. IC 9-17-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Except as provided under subsection (b), a person who violates this chapter commits a Class C infraction.

(b) A person who knowingly damages, removes, covers, or alters a ~~special engine~~ **an identification** number commits a Class C felony.

SECTION 16. IC 9-17-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A person having possession of a certificate of title for a motor vehicle, semitrailer, or recreational vehicle because the person has a lien or an encumbrance on the motor vehicle, semitrailer, or recreational vehicle must deliver ~~the certificate of title to the person who owns the motor vehicle, semitrailer, or recreational vehicle upon not more than ten (10) business days after receipt of the payment~~ the satisfaction or discharge of the lien or encumbrance indicated upon the certificate of title **to the person who:**

(1) is listed on the certificate of title as owner of the motor vehicle, semitrailer, or recreational vehicle; or

(2) is acting as an agent of the owner and who holds power of attorney for the owner of the motor vehicle, semitrailer, or recreational vehicle.

SECTION 17. IC 9-17-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A manufacturer, converter manufacturer, or dealer must have:

- (1) a certificate of title;
- (2) an assigned certificate of title; ~~or~~
- (3) a manufacturer's certificate of origin; **or**

(4) **an assigned manufacturer's certificate of origin;**
for a motor vehicle, semitrailer, or recreational vehicle in the
manufacturer's, converter manufacturer's, or dealer's possession.

SECTION 18. IC 9-17-8-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Before obtaining
a manufacturer's, converter manufacturer's, or dealer's license from the
bureau, a person must agree to allow a police officer or an authorized
representative of the bureau to inspect:

(1) certificates of origin, certificates of title, ~~or~~ assignments of
certificates of origin and certificates of title, **or other proof of
ownership as determined by the bureau;** and

(2) motor vehicles, semitrailers, or recreational vehicles that are
held for resale by the manufacturer, converter manufacturer, or
dealer;

in the manufacturer's, converter manufacturer's, or dealer's place of
business during reasonable business hours.

(b) A certificate of title, ~~and~~ a certificate of origin, **and any other
proof of ownership** described under subsection (a):

(1) must be readily available for inspection by or delivery to the
proper persons; and

(2) may not be removed from Indiana.

SECTION 19. IC 9-18-8-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this
chapter, "motor vehicle part" means: ~~the~~

~~(1) engine;~~

(1) for a motorcycle:

(A) a frame; or

(B) an engine;

~~(2) frame;~~

(2) for a passenger motor vehicle, a:

(A) frame;

(B) chassis; or

(C) body;

~~(3) chassis;~~

(3) for a truck or a tractor, a:

(A) frame;

(B) chassis;

(C) cab; or

(D) body; or

(4) for a trailer, semitrailer, or recreational vehicle, a:

(A) chassis; or

(B) body;

of ~~a~~ **the** motor vehicle.

SECTION 20. IC 9-18-8-5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Upon receipt of
an application, together with the fee specified under IC 9-29 for a
special identification number, the bureau shall issue to the person who
submitted the application written permission to make or stamp a
special identification number in a place on the motor vehicle to be
designated by the bureau.

(b) If the original identification number is on the vehicle or

1 **visible, the new special identification number must be affixed so as**
 2 **not to cover the original identification number.**

3 SECTION 21. IC 9-18-8-9 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The bureau may
 5 not register a motor vehicle without an identification number or issue
 6 a ~~license plate~~ **certificate of title** for the operation of a motor vehicle
 7 except as specified under this chapter.

8 (b) This section does not prevent a manufacturer or a manufacturer's
 9 agent, other than a dealer, from doing the manufacturer's own
 10 numbering on motor vehicles ~~of or~~ parts removed or changed and
 11 replacing the numbered parts.

12 SECTION 22. IC 9-18-8-10 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Before issuing
 14 a ~~license plate~~, **certificate of title**, the bureau shall require the person
 15 applying for the ~~license plate~~ **certificate of title** to sign a statement that
 16 the special identification number assigned to be placed on the motor
 17 vehicle has been put on in a workmanlike manner.

18 (b) The statement described under subsection (a) shall be certified
 19 by:

- 20 (1) a chief of police;
- 21 (2) a sheriff; or
- 22 (3) another convenient peace officer;

23 that the chief of police, sheriff, or peace officer has inspected the motor
 24 vehicle and found the identification number to be attached to the motor
 25 vehicle as required by this chapter.

26 (c) This section does not prevent a manufacturer or a manufacturer's
 27 agent, other than a dealer, from doing the manufacturer's own
 28 numbering on motor vehicles ~~of or~~ parts removed or changed and
 29 replacing the numbered parts.

30 SECTION 23. IC 9-18-8-16 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A person who
 32 operates a motor vehicle on which the ~~engine~~ **identification** number
 33 has been removed, defaced, destroyed, obliterated, or concealed, when
 34 application has not been made to the bureau for permission to put on
 35 a new number, commits a Class C infraction.

36 (b) If a person who violates subsection (a) cannot, to the satisfaction
 37 of the court, establish the person's ownership of the motor vehicle, the
 38 motor vehicle shall be confiscated by the court and sold. The proceeds
 39 from the sale shall be used to pay the fine and costs of prosecution, and
 40 the balance, if any, shall be deposited in the motor vehicle highway
 41 account fund.

42 (c) If the fine and costs are not paid within thirty (30) days after
 43 judgment is rendered under this section, the court shall proceed to
 44 advertise and sell the motor vehicle in the manner provided by law for
 45 the sale of personal property under execution.

46 (d) If at any time the motor vehicle remains in the custody of the
 47 court or the court's officers under this section the owner appears and
 48 establishes the owner's title to the motor vehicle to the satisfaction of
 49 the court, the motor vehicle shall be returned to the owner. The owner
 50 shall then make application for and may obtain a ~~special engine an~~
 51 **identification** number **and a title** as provided in ~~IC 9-17-4-5.~~

IC 9-17-4. The owner may then use the motor vehicle upon proper registration.

SECTION 24. IC 9-22-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section applies to the following persons:

(1) An insurance company ~~or other person~~ that has acquired **declares** a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter and the ownership of which is not evidenced by a certificate of salvage title.

(2) An insurance company that has made and paid an agreed settlement for the loss of a stolen motor vehicle, motorcycle, semitrailer, or recreational vehicle.

(b) A person who owns or holds a lien upon a vehicle described in subsection (a) shall assign the certificate of title to the ~~person~~ **insurance company** described in subsection (a). The insurance company ~~or other person~~ shall apply to the bureau within thirty-one (31) days after receipt of the certificate of title for a certificate of salvage title for each salvage or stolen vehicle subject to this chapter. The insurance company ~~or other person~~ shall surrender the certificate of title to the department and pay the fee prescribed under IC 9-29-7 for a certificate of salvage title.

~~(c) A person who was the owner of a motor vehicle, motorcycle, semitrailer, or recreational vehicle at the time that the vehicle became wrecked or damaged may not be considered to have acquired that vehicle within the meaning of this section.~~

(c) When a self-insured entity is the owner of a salvage motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter, the self-insured entity shall apply to the bureau within thirty-one (31) days after the date of loss for a certificate of salvage title in the name of the self-insured entity's name.

(d) Any other person acquiring a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter, which acquisition is not evidenced by a certificate of salvage title, shall apply to the bureau within thirty-one (31) days after receipt of the certificate of title for a certificate of salvage title.

SECTION 25. IC 9-23-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles:

(1) An automobile auctioneer.

~~(2) A broker.~~

~~(3) (2)~~ A converter manufacturer.

~~(4) (3)~~ A dealer.

~~(5) (4)~~ A distributor.

~~(6) (5)~~ A distributor branch.

~~(7) (6)~~ A distributor representative.

~~(8) (7)~~ A factory branch.

~~(9) (8)~~ A factory representative.

(+0) (9) A manufacturer.

(+1) (10) A transfer dealer.

(+2) (11) A wholesale dealer.

SECTION 26. IC 9-23-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The license issued to a factory representative or distributor representative must state the name of the employer. Within ten (10) days after a change of employer, the holder shall mail the license to the bureau and indicate the name and address of the holder's new employer. The bureau shall endorse the change on the license and return the license to the licensee in care of the licensee's new employer. A factory representative, distributor representative, ~~or wholesale dealer or broker~~ must have a license when engaged in business and shall display the license upon request. A temporary license for a factory representative ~~or distributor representative or broker~~ may be issued for a period up to one hundred twenty (120) days pending investigation by the bureau of the applicant's qualification for a license.

SECTION 27. IC 9-23-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the bureau shall issue an offsite sales license to a dealer licensed under this chapter not later than forty-five (45) days after receipt of the application for the license. License applications under this section shall be made public upon the request of any person. The term of the offsite sales license is not to exceed ten (10) days.

(b) The bureau may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) **The bureau may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not apply to:**

(1) new manufactured housing dealers;

(2) recreational vehicle dealers; or

(3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates.

(d) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 28. IC 9-23-3-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.3. As used in this chapter, "broker" means a person who, for a fee, a commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used motor vehicle and who is not:**

(1) a dealer or an employee of a dealer;

(2) a distributor or an employee of a distributor; or

(3) at any point in the transaction, the bona fide owner of the vehicle involved in the transaction.

SECTION 29. IC 9-23-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. It is an unfair

1 practice for an automobile auctioneer, a wholesale dealer, **or** a transfer
 2 dealer, ~~or a broker~~, in connection with the auctioneer's ~~or~~ dealer's ~~or~~
 3 ~~broker's~~ business, to use false, deceptive, or misleading advertising or
 4 to engage in deceptive acts or practices.

5 SECTION 30. IC 9-23-3-25 IS ADDED TO THE INDIANA CODE
 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2003]: **Sec. 25. It is an unfair practice for a person to:**

8 **(1) act as;**

9 **(2) offer to act as; or**

10 **(3) profess to be;**

11 **a broker in the advertising, buying, or selling of at least twelve (12)**
 12 **new or used vehicles per year.**

13 SECTION 31. IC 9-25-6-3 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the bureau:

15 (1) does not receive a certificate of compliance from a person
 16 identified under IC 9-25-5-2 within forty (40) days after the date
 17 on which the bureau mailed the request for evidence of financial
 18 responsibility to the person; or

19 (2) receives a certificate that does not indicate that financial
 20 responsibility was in effect with respect to the motor vehicle
 21 operated by the person on the date of the accident referred to in
 22 IC 9-25-5-2;

23 the bureau shall take action under subsection (c).

24 (b) If the bureau:

25 (1) does not receive a certificate of compliance from a person
 26 presented with a request for evidence of financial responsibility
 27 under IC 9-25-9-1 within forty (40) days after the date on which
 28 the person was presented with the request; or

29 (2) receives a certificate that does not indicate that financial
 30 responsibility was in effect with respect to the motor vehicle that
 31 the person was operating when the person committed the violation
 32 described in the judgment or abstract received by the bureau
 33 under IC 9-25-9-1;

34 the bureau shall take action under subsection (c).

35 (c) Under the conditions set forth in subsection (a) or (b), the bureau
 36 shall do the following:

37 (1) Immediately suspend the person's current driving license or
 38 vehicle registration, or both.

39 (2) Demand that the person immediately surrender the person's
 40 current driving license or vehicle registration, or both, to the
 41 bureau.

42 (d) Except as provided in subsection (e), if subsection (a) or (b)
 43 applies to a person, the bureau shall suspend the current driving license
 44 of the person irrespective of the following:

45 (1) The sale or other disposition of the motor vehicle by the
 46 owner.

47 (2) The cancellation or expiration of the registration of the motor
 48 vehicle.

49 (3) An assertion by the person that the person did not own the
 50 motor vehicle and therefore had no control over whether financial
 51 responsibility was in effect with respect to the motor vehicle.

(e) The bureau shall not suspend the current driving license of a person to which subsection (a) or subsection (b) applies if the person, through a certificate of compliance or another communication with the bureau, establishes to the satisfaction of the bureau that the motor vehicle that the person was operating when the accident referred to in subsection (a) took place or when the violation referred to in subsection (b) was committed was:

(1) rented from a rental company; ~~(as defined in IC 24-4-9-7);~~ or

(2) owned by the person's employer and operated by the person in the normal course of the person's employment.

SECTION 32. IC 9-29-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The fee for a factory representative, distributor representative, wholesale dealer, transfer dealer, **or** converter manufacturer **or** broker under IC 9-23-2 is twenty dollars (\$20).

SECTION 33. IC 9-17-4-5 IS REPEALED [EFFECTIVE JULY 1, 2003].

(Reference is to ESB 405 as reprinted April 11, 2003.)

Conference Committee Report
on
Engrossed Senate Bill 405

Signed by:

Senator Clark
Chairperson

Representative Mahern

Senator Lewis

Representative Duncan

Senate Conferees

House Conferees